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5 IN THE UNITED STATES DISTRICT COURT
6
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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9 LUIS HERRERA,

10 Petitioner,

No. C 08-0730 WHA

11 v.

12 UNITED STATES OF AMERICA,

**ORDER GRANTING MOTION
TO AMEND**

13 Respondent.
14 _____/

15 Our court of appeals granted defendant Luis Herrera's motion to file a second successive
16 Section 2255 petition in April 2017. Herrera thereafter filed his motion, *pro se*.

17 On June 14, Herrera was assigned counsel, and his counsel moved to amend his Section
18 2255 motion pursuant to FRCP 15(a)(2), allowing a party to amend a pleading "when justice so
19 requires." Herrera argues that justice requires amendment because the issues in this action are
20 complex and would benefit from attorney briefing, and because Herrera filed his motion almost a
21 year ago and there have since been developments in the law, which bear directly on his motion.

22 The Court ordered the government to show cause why Herrera's motion to amend should
23 not be granted. On June 22, the government replied, stating that it has no objection to amendment
24 as long as Herrera does not raise any new claims which were not approved by our court of appeals
25 in granting his second successive Section 2255 petition.
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1 In the interest of justice, Herrera's motion to amend his Section 2255 motion is **GRANTED**.
2 Herrera may not raise any new claims not the basis for our court of appeals' grant of his motion to
3 file a successive petition.

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5 **IT IS SO ORDERED.**

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7 Dated: June 23, 2017.


WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE